

# CONTRACTORS ACCOMPANYING THE FORCE



# **LESSON OBJECTIVES**

- **Terminal Learning Objective: Demonstrate familiarity with the process of contractor deployment preparation and execution**
- **Enabling learning Objectives:**
  - **Compare and contrast the three types of contractors which accompany US Armed Forces**
  - **List US Armed Forces responsibilities in the sustainment of contractors accompanying the force**
  - **Establish the legal status of contractors accompanying the force**
  - **Discuss protection of contractors accompanying the force**
  - **Recognize US and potential Nation Laws governing the conduct of contractors accompanying the force**

# BACKGROUND

**The US Military has always used contractors on the battlefield as far back as the Revolutionary War**

- **The Revolution**
- **WWI & WWII**
- **Korea**
- **Vietnam**



- **Desert Storm**
- **Balkans**
- **Operation Enduring Freedom**
- **Operation Iraqi Freedom**

**The reliance on contractor support has evolved past the basic logistical supply activities to include some of our most technical and mission critical wartime tasks**



# TYPES OF CONTRACTORS

There are 3 types of contractors deployed on the battlefield:

- **Theater Support Contractors** : Support deployed operational forces under prearranged contracts or contracts awarded from the mission area. They provide goods, services, and minor construction, usually through local vendors, to meet the immediate needs of operational commanders.
- **External Support Contractors**: Provide support to deployed operational forces that is separate and distinct from either theater support or support provided by system contractors. They perform according to pre-arranged contracts or contracts awarded during the contingency itself.
- **System Contractors** : Support deployed operational forces under pre-arranged contracts awarded by Program

# **PREPARATION FOR DEPLOYMENT**

- **Contractors employees processing through CONUS Replacement Center (CRC) / Individual Deployment Site (IDS) must bring readiness files.**
- **Contractors deploying for 30-days or more must go through CRC each time.**
- **Organizational Clothing and Individual Equipment (OCIE) are issued according to theater deployment requirements.**
- **Battle Dress Uniforms (BDU's) and Boots are only issued with a waiver.**

# **DEPLOYING CONTRACTORS**

- **Deployment and redeployment of contractors usually only pertains to those external support or system contractors which reside outside the Area of Operations (AO).**
- **When distances to be traveled are great enough, theater support contractors may be included in the deployment and redeployment process.**
- **Contractor personnel and equipment deployment must be integrated into the Combatant Commander's deployment priority system.**
- **Prior to deployment, certain requirements must be satisfied in order for contractor personnel and equipment to be properly prepared for the deployment process.**

# MANAGEMENT OF CONTRACTOR PERSONNEL

**Who is in control of contractors deployed to a Theater or Area of Operations?**

- ***Defense Contractor's Management Staff***
- ***Contracting Officer***
- ***Combatant Commander***

**Contractors are obligated to perform IAW contract requirements and Terms and Conditions.**

**Contracting Officers are the only person authorized to change the Terms and Conditions of the contract.**

# **MANAGEMENT OF CONTRACTOR PERSONNEL**

- **The contract is the principal legal basis for the relationship between the Department of Defense and contractor.**
- **Supervision of contractor employees is performed by the respective contractor.**
- **Contracting Officer's Representative (COR) acting within the limits of the authority delegated by the Contracting Officer, may provide guidance to the contractor regarding performance.**
- **Retirees of the US Armed Forces working as a contractor employee OCONUS remain subject to the Uniformed Code of Military Justice.**
- **All US Armed Forces sponsored contractors in the AO whether Theater, External or System shall be assigned to a US Armed Forces unit so as to maintain administrative<sup>8</sup> accountability and management.**



# SUSTAINING CONTRACTORS

- **Life Support:** Life support includes items such as mail service, field service, medical support, morale support, religious support, legal services, and mortuary affairs.
- **Theater support contractors obtain life support from local sources.**
- **System contractors are dispersed throughout the AO and obtain life support from the units they are providing support to.**
- **External support contractors obtain life support from Service Component Command or support themselves depending on the terms of the contract.**

# **SUSTAINING CONTRACTOR SUPPORT**

- **Facilities:** Operating and living facilities are determined by the terms and conditions of the contract.
- **Distribution:** Contractors are encouraged to maximize the use of commercial distribution modes.
- **Government - Furnished Equipment:** Contractor use of Government-Furnished Equipment minimizes the need for large quantities of commercial equipment in the AO.

# PROTECTION FOR CONTRACTORS

- **Legal status** - Under the law of land warfare, contractors are neither combatants nor noncombatants. They occupy a special niche called civilians authorized to accompany the force.
  - *Contractor personnel cannot be targeted deliberately for military action*
  - *Contractors cannot engage in activities inconsistent with their status*
  - *Contractors cannot perform functions in direct support of hostile operations*
- **Security** - Contractors cannot provide their own security; that is a military function. This means that US Forces must protect contractor personnel.

# PROTECTION FOR CONTRACTORS

## CONT'D

- **Personal firearms - Contractor personnel can be armed only for self-defense. Three conditions must be met to bear arms:**
  - *Relevant commander in the AOR must approve the carrying of arms by contractors*
  - *Contractor company policy must permit its employees to carry arms*
  - *Individual contractor employee must agree to carry a firearm*
- **NBC Threats - All personnel in an AO are equally vulnerable to NBC threats, and everyone requires the same minimum-essential protection**

# MISSION TRAINING

- **Deploying contractor personnel departing from CONUS or OCONUS may require Theater / AO specific training.**
- **Training requirements must be identified during planning and specified in the contractors operational support plan.**
- **Requirements must be stipulated in the contract.**
- **Training at the CRC / IDS will cover such areas as: *Geneva Conventions, Code of Conduct, Health and Sanitation, Legal Assistance, Customs and Courtesies, applicable Status of Forces Agreement or Visiting Forces Agreement, Security, Weapons and OPSEC.***

# LEGAL ASSISTANCE

- **Generally, contractors are not entitled to military legal assistance.**
- **Appropriate official shall ensure theater admission requirements state contractor personal should prepare and execute any necessary wills or power of attorney before reporting to the deployment center.**
- **Limited minor legal assistance may be provided to contractors under certain conditions:**
  - ***Legal assistance is limited to ministerial services.***
  - ***If the Service Component Command is under contractual obligation to provide legal assistance***<sup>14</sup>

# LAWS

## Uniform Code of Military Justice (UCMJ)

- In addition to domestic US Laws and International Agreements, contractor employees may be subject to the UCMJ in time of war, as declared by Congress.
- Contractors who are retired US military personnel may be subject to charges under UCMJ during non-declared wars and other contingency operations as well peace time.

## Military Extraterritorial Jurisdiction Act of 2000 (MEJA)

- MEJA specifies that persons authorized to accompany the armed forces who engage in conduct constituting an offense punishable by imprisonment for more than one year, conducted within jurisdiction of US shall be punished.
- MEJA permits the Department of Justice via US District Court to prosecute employees of DoD contractors and subcontractors who commit crimes on foreign soil.
- Non-DoD agencies are not included in the MEJA; however the Patriot Act does apply.

# **LAWS CONT'D**

## **Geneva / Hague Convention:**

- 1949 Geneva convention (Article 4) provides that prisoner of war status upon capture is extended to among others, contractor employees.
- During armed conflict with nations that are not signatories to the treaties the status of contractors may be less clear.
- 1907 Hague convention (Article 13) states contractors who fall into enemy's hands are entitled to be treated as prisoners of war, provided they are in possession of a certificate from US military authorities.

## **Status of Forces Agreement:**

- SOFA establishes the legal obligations to be followed when operating within or in-transit through a particular nation.
- Establishes legal status and legal obligations of contractors and contractor employees in a host nation.
- SOFA negotiations may also involve countries that must be transited in order to reach the AO.



# **CONDUCT**

- **The Theater Commander can influence the discipline of contractors through revocation or suspension of clearances, restriction from installations or facilities.**
- **Contractors will not be subjected to the UCMJ in a typical contingency operation.**
- **Removal of contractor employees from the theater of operations is dependent upon the policies issued by the theater commander which are incorporated in the terms of the contract.**

# **LEGAL STATUS OF CONTRACTORS**

- **Contractors may support military operations as civilians accompanying the force so long as appropriate designation has taken place.**
- **Must be provide an identification card under the provisions of the 1949 Geneva Convention Relative to the treatment of Prisoners of War.**
- **Contractors captured during armed conflict are entitled to Prisoner of War status.**
- **Contractor personnel retain the inherent right of individual self-defense.**

# **LETTER OF AUTHORIZATION**

- **Letter of Authorization must be issued by a US Government Contracting Officer or designee.**
- **Letter of Authorization must accompany contractors at all times.**
- **Letter of Authorization shall provide at a minimum:**
  - ☐ **Prime contract number**
  - ☐ **Emergency contact telephone number**
  - ☐ **Email address of Government Contracting Officer**
  - ☐ **Telephone number and email address of employing defense contractor**
  - ☐ **Sponsor in-theater**

# HEALTH AND LIFE INSURANCE

- **The Service Component Commands have no statutory obligation to provide a contractor with health and life insurance as a result of a deployment.**
- **Health and life insurance policies often contain a “War Risk” clause that may adversely affect benefits.**
- **Protecting or pursuing health and life insurance benefits and remedies is the responsibility of the contractor or its employees.**

# **REWARDS AND RISKS**

## **Motivations for a civilian to go to war**

- Patriotic Duty
- Money
- Career Advancement

## **Risks involved with Battlefield Employment**

- Capture / Hostage
- Ambush / Attack
- Maiming or Death

# **SUMMARY**

- **Compare and contrast the three types of contractors which accompany US Armed Forces.**
- **Demonstrate familiarity with the process of contractor deployment preparation and execution.**
- **List of US Armed Forces responsibility in the sustainment of contractors accompanying the force.**
- **Establish the legal status of contractors accompanying the force.**
- **Determine protection of contractors accompanying the force.**
- **Recognize US and potential Host Nation Laws governing the conduct of contractors accompanying the force.**